

§ 983.257

study may be prepared by HA staff or by another qualified appraiser. The appraiser may not have any direct or indirect interest in the property or otherwise.

(iv) The comparability study must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units.

(v) If the owner requests a rent increase by the 120 day deadline (in accordance with § 983.254(a)), the HA must submit a comparability study to the owner at least 60 days before the HAP contract anniversary. If the HA does not submit the comparability study to the owner by this deadline, an increase of rent by application of the annual adjustment factor (in accordance with § 983.254(b)) is not subject to the reasonable rent limit.

(d) *Owner certification of rents charged for other units.* By accepting each monthly housing assistance payment from the HA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner must give the HA information requested by the HA on rents charged by the owner for other units in the premises or elsewhere.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0169.)

§ 983.257 Other subsidy: Effect on rent to owner.

(a) *HOME.* For units assisted under the HOME program, rents are subject to requirements of the HOME program (24 CFR 92.252).

(b) *Combining subsidy.* The HA may only approve or assist a project in accordance with HUD regulations and guidelines designed to ensure that participants do not receive excessive compensation by combining HUD program assistance with assistance from other Federal, State or local agencies, or with low income housing tax credits. (See 42 U.S.C. 3545(d) and section 3545 note.)

(c) *Other subsidy: HA discretion to reduce rent.* The HA may reduce the initial rent to owner because of other governmental subsidies, including tax

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credit or tax exemption, grants or other subsidized financing.

(d) *Prohibition of other subsidy.* For provisions prohibiting PBC assistance to units in certain types of subsidized housing, see § 983.7(c).

§ 983.258 Rent to owner: Effect of rent control.

In addition to the rent reasonableness limit, and other rent limits under this rule, the amount of rent to owner also may be subject to rent control limits under State or local law.

§ 983.259 Correction of rent.

At any time during the life of the HAP contract, the HA may revise the rent to owner to correct any errors in establishing or adjusting rent to owner in accordance with HUD requirements. The HA may recover any excess payment from the owner.

§ 983.260 Housing assistance payment: Amount and distribution.

(a) *Amount.* The monthly housing assistance payment equals the gross rent, minus the higher of:

- (1) The total tenant payment; or
- (2) The minimum rent as required by law.

(b) *Distribution.* The monthly housing assistance payment is distributed as follows:

(1) The HA pays the owner the lesser of the housing assistance payment or the rent to owner.

(2) If the housing assistance payment exceeds the rent to owner, the HA may pay the balance of the housing assistance payment either to the family or directly to the utility supplier to pay the utility bill.

§ 983.261 Family share: Family responsibility to pay.

(a) The family share is calculated by subtracting the amount of the housing assistance payment from the gross rent.

(b) The HA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the family share. Payment of the family share is the responsibility of the family.